

## Message Text

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JUSTICE: M.R.STEIN

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TO AMEMBASSY SANTIAGO PRIORITY

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SUBJECT: EXTRADITION TREATY NEGOTIATIONS--CHILE

1. LIST OF NEGOTIATION OFFENSES HAS BEEN REVIEWED BY JUSTICE. ALTHOUGH JUSTICE REALIZES THE NECESSITY OF PROVIDING FOR RECIPROCAL OFFENSES AND SPECIFYING THE SEVERITY OF PENALTIES, JUSTICE STILL HAS FOLLOWING COMMENTS AND QUESTIONS:

A. OFFENSE 3 IN MOST RECENT TREATIES IS ENUMERATED AS EITHER UNLAWFUL OR ILLEGAL ABORTION; JUSTICE SUGGESTS LIKE LANGUAGE HERE.

B. JUSTICE ASSUMES THAT OFFENSE 8 INCLUDES KIDNAPPING, ABDUCTION, AND FALSE IMPRISONMENT; SHOULD SPECIFIC MENTION OF THESE TERMS BE INCLUDED?

C. JUSTICE NOTES THAT OFFENSE 11 FAILS TO DEFINE FRAUD AND DOES NOT MENTION OBTAINING OR POSSESSING STOLEN PROPERTY AND OTHER OFFENSES WHICH APPEAR IN ALL U.S. TREATIES INCLUDING RECENT TREATIES WITH ARGENTINA AND URUGUAY. JUSTICE SPECULATES THAT GENERAL CLAUSE OF UNCLASSIFIED

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THIS TREATY MAY TREAT THESE OFFENSES; IF NOT,

SPECIFIC MENTION IN ENUMERATED OFFENSES MAY BE  
DESIRABLE.

D. JUSTICE ASSUMES THAT OFFENSE 13 IS NEEDED BY GOC AS IT

APPEARS TO BE A REPETITION OF OFFENSES 10 AND 11 FROM  
US POINT OF VIEW.

E. JUSTICE SUGGESTS THAT OFFENSE 14 BE BROADENED BY  
STATING AS FOLLOWS: "OFFENSES AGAINST THE LAWS  
RELATING TO COUNTERFEITING AND FORGERY INCLUDING  
FALSIFICATION OF MONEY, BILLS, ... (OR, INSTEAD OF THE  
WORD "INCLUDING," PERHAPS THE WORD "PARTICULARLY").

F. JUSTICE SUGGESTS THAT THE WORD "COCAINE" BE MENTIONED  
IN OFFENSE 17 BECAUSE COCAINE IS NOT TECHNICALLY CON-  
SIDERED BY SOME TO HAVE THE SAME DEPENDENCY EFFECT AS  
THE OTHER ITEMS LISTED IN OFFENSE 17.

G. CAN WE ASSUME THAT OFFENSE 18 INCLUDES OFFERING,  
SOLICITING, AND ACCEPTING BRIBES WITHOUT SPECIFICALLY  
MENTIONING THEM?

H. JUSTICE ASKS WHAT IS THE U.S. EQUIVALENT CRIME FOR  
OFFENSE 19. AS STATED, OFFENSE 19 APPEARS TO INCLUDE  
CONSPIRACY, BUT JUSTICE DESIRES CLARIFICATION.

I. JUSTICE IS UNCERTAIN AS TO THE SCOPE OF OFFENSE 22  
IN TERMS OF U.S. LAW. JUSTICE POINTS OUT THAT 18 U.S.C.  
1700 (DESERTION OF MAILED) AND 18 U.S.C. 1701  
(OBSTRUCTION OF MAILED GENERALLY) ARE MISDEMEANORS,  
WHILE 18 U.S.C. 703 (DELAY OR DESTRUCTION BY POSTAL  
EMPLOYEES) IS A FELONY.

J. JUSTICE INQUIRES IF OFFENSE 23 INCLUDES STOCK,  
SECURITY, AND COMMODITY VIOLATIONS.

2. REGARDING PARA 2 OF REFTEL, JUSTICE POINTS OUT  
THAT OFFENSE 21 IS ANALOGOUS TO THE PROPOSED GERMAN  
TREATY WHICH DEALS WITH FACILITATING OR PERMITTING THE  
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ESCAPE OF A PERSON FROM CUSTODY AND WITH PRISON  
MUTINY. THUS, IN CONCEPT JUSTICE IS IN AGREEMENT WITH  
OFFENSE 21 AS PROPOSED.

3. JUSTICE ASSUMES THAT PROBLEMS UNIQUE TO U.S.G.  
JURISDICTION SUCH AS USE OF THE MAILED OR OTHER MEANS OF  
COMMUNICATION, TRANSPORTING OR TRANSPORTATION ACROSS  
STATE LINES, ACCESSORY TO A CRIME, CONSPIRACY, AND

PENALTY IN EXCESS OF ONE YEAR, WILL BE DEALT WITH IN  
THE GENERAL CLAUSE AS HAS BEEN DONE IN RECENT TREATIES  
WITH ARGENTINA, PARAGUAY, AND URUGUAY.

4. RE PARA 4 OF REFTEL, JUSTICE SUGGESTS THAT THE  
FOLLOWING LANGUAGE FOUND IN THE LIECHTENSTEIN TREATY  
MAY BE OF ASSISTANCE:

"WITH RESPECT TO THE ABOVE ENUMERATED CRIMES AND  
OFFENSE, IT IS AGREED THAT WHEN ONE OF THE CRIMES OR  
OFFENSES IS NOT DESIGNATED AS SUCH IN THE LAWS OF  
ONE OF THE STATES, NEVERTHELESS, THE EXTRADITION  
SHOULD TAKE PLACE WHEN SUCH CRIME OR OFFENSE  
INCLUDES AS AN ESSENTIAL ELEMENT AN ACT WHICH IS  
DESIGNATED AS PUNISHABLE BY THE LAWS OF THE  
STATE IN WHOSE TERRITORY THE FUGITIVE IS FOUND." KISSINGER

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